

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
CRIMINAL REVISION APPLICATION No. 87 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be
allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair
copy of the judgment ?

4 Whether this case involves a substantial
question of law as to the interpretation of
the constitution of India, 1950 or any order
made thereunder ?

5 Whether it is to be circulated to the civil
judge ?

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RAVINDRABHAI THAKORBHAI PATEL

Versus

THE STATE OF GUJARAT

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Appearance :

MS SANVIDA SONI for MR MP SHAH for the Petitioner

MS HB PUNANI, ADDITIONAL PUBLIC PROSECUTOR for the Respondent

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 14/03/2007

ORAL JUDGMENT

1. Original applicant in Criminal Misc.Application
No.11 of 2007 in Palsana Police Station II C.R.No.1070 of
2006 is before this Court being aggrieved by the order
passed by the learned Principal Senior Civil Judge and

Judicial Magistrate First Class, Bardoli dated 07.02.2007.

Present petitioner had filed an application praying that he be handed over the custody of INDICA Car bearing Registration No.GJ-15-DD-8871 during the pendency of trial – II C.R.No.1070 of 2006 registered at Palsana Police Station on such terms and conditions as the Court may deem fit.

2. Ms.Soni, for Mr.M.P.Shah, learned Advocate for the petitioner submitted that the learned JMFC has committed an error in not granting the application filed by the petitioner. She submitted that though it is mentioned in the order that in normal circumstances, on appropriate conditions, the vehicle is to be handed over to the owner of the vehicle, but in the present case, as the vehicle was used by applying duplicate number plate, the learned JMFC did not think it fit to order the custody of the vehicle to the petitioner.

The learned Advocate for the petitioner submitted that the learned JMFC could have imposed stricter conditions then in the ordinary cases, but rejecting an application has resulted into miscarriage of justice. She submitted that the case of the petitioner was that his vehicle was borrowed by his friend for taking his

ailing mother to the hospital; the petitioner is totally innocent person; he did not know anything about the activities of his friend and he did not apprehend that his vehicle will be used in such criminal activity.

The learned Advocate submitted that the applicant was ready and is willing to abide by any terms and conditions which may take care of the orders passed at the end of the trial. She submitted that in that view of the matter, the order passed by the learned JMFC be quashed and set aside and the custody be directed to be handed over to the petitioner.

3. Having heard the learned Advocate for the petitioner and learned Additional Public Prosecutor for the State, the revision application is allowed. Order dated 07.02.2007 is hereby quashed and set aside. The matter is remanded to the learned JMFC, Bardoli for deciding afresh in view of the observations made by this Court. It is reiterated that what is required in such cases is to see that the interest is best protected and the balance is strike between the parties.

4. Rule is made absolute. Direct service is permitted.

(RAVI R. TRIPATHI, J.)

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